

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARCEL RIDDLE-BEY,

Petitioner,

Case No. 07-14389

v.

Honorable Patrick J. Duggan

RAYMOND BOOKER,

Respondent.

**OPINION AND ORDER DENYING MOTION
FOR RELIEF FROM JUDGMENT**

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on June 30, 2009.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Marcel Riddle-Bey (“Petitioner”) filed a motion for relief from judgment on June 16, 2008, pursuant to FED. R. CIV. P. 60(B)(1), (3), (5), & (6). Petitioner filed a *pro se* Petition for a Writ of Habeas Corpus in 2002, challenging his 1998 state court convictions for second-degree murder and possession of a firearm during the commission of a felony.

On May 30, 2003, United States District Court Judge Denise Page Hood denied his habeas petition. Subsequently, Petitioner filed a second habeas petition challenging the same convictions in this Court on October 16, 2007. On October 30, 2007, this Court transferred the petitioner’s habeas petition to the Sixth Circuit Court of Appeals pursuant to 28 U.S.C. § 2244(b)(3)(A). The Court of Appeals denied Riddle’s motion for an order

authorizing this Court to consider a second habeas petition under 28 U.S.C. § 2254, finding that Petitioner’s claim was based on a newly enacted state law and, therefore, involved an issue of state law not subject to federal habeas review.

In his current petition, Petitioner alleges that this Court committed a “procedural defect” when it refused to exercise jurisdiction upon his filed habeas petition pursuant to 28 U.S.C. § 2241(b)(c)(3). He also alleges that he was prejudiced when the Court refused to recognize the “subject” of his petition contrary to *Castro v. United States*, 540 U.S. 375, 124 S. Ct. 786 (2003).

As this Court stated in its previous order transferring the Petitioner’s case to the United States Court of Appeals, “A person seeking to file a second or successive habeas petition must first ask the appropriate court of appeals for an order authorizing the district court to consider the petition.” (Order, p. 2, Oct. 30, 2007.) The Court of Appeals denied Petitioner’s motion for an order authorizing this court to consider a second or successive habeas petition. *In re: Marcel Riddle*, No. 07-2401 (6th. Cir. Apr. 30, 2008). Because the Court of Appeals did not give this Court the authority to address the Petitioner’s claims, this Court does not have jurisdiction over this matter. *See* 28 U.S.C. § 2244(b)(3)(A); *Stewart v. Martinez-Villareal*, 523 U.S. 637, 641, 118 S. Ct. 1618, 1620 (1998).

Accordingly,

IT IS ORDERED, that Petitioner’s motion for relief from judgment is **DENIED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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